Bill Number: **Senate Bill 758 (Maldonado) – As Introduced 2/22/05**

SUMMARY:

Senate Bill 758 creates an exemption to the post-retirement earnings limit for retired members of the California State Teachers' Retirement System (CalSTRS) Defined Benefit (DB) Program who mentor a school principal in specific circumstances.

PURPOSE OF THE BILL:

According to the author, the purpose of this bill is to provide resources to schools in California identified as "high-priority" (i.e. low or under-performing schools) to work towards meeting federal education standards under No Child Left Behind. SB 758 would encourage retired principals to mentor current principals and facilitate mediation between the school and state or federal offices of education.

BOARD POSITION:

Support, if amended. The Teachers' Retirement Board (Board) has historically supported legislation that temporarily exempts members from the earnings limit, if the member fills a position that has a demonstrated difficulty in being filled and the exemption does not jeopardize the tax-qualified status of the DB Program. This is also consistent with the CalSTRS goal to proactively develop benefits and products that meet customer needs.

SUMMARY OF SUGGESTED AMENDMENTS:

CalSTRS recommends amendments to conform SB 758 to the provisions that apply to existing post-retirement earnings limit exemptions for administrators that:

- Require the State Board of Education certify the exemption, pursuant to Education Code Section 24216(a)(3);
- Limit the term of the exemption to two years, pursuant to Ed Code Section 24216(a)(2);
- Establish an effective date of July 1, 2005, to clarify that the new exemption applies beginning with the 2005-06 school year.

PROGRAM BACKGROUND:

The CalSTRS DB Program restricts the amount and type of employment performed by its retired members. Retired members may enter employment that is not considered "creditable service" and earn an unlimited amount of compensation without experiencing a reduction in retirement benefits. Retired members may also perform creditable service if the amount of compensation earned from that employment is below a specified dollar amount. Members who return to work after retirement will experience a dollar-for-dollar reduction in retirement benefits if they exceed the post-retirement earnings limit. CalSTRS adjusts the amount of the post-retirement earnings limit each year and bases it on the percentage increase in the average compensation earnable of active DB Program members; the Service Retirement post-retirement earnings limit for fiscal year 2005-06 is $27,720; the Disability Retirement limit for the same fiscal year is $22,650. In addition, a retired member may return to perform creditable service without limitation if the member waits 12 months after retiring.

Current law includes the following specific exemptions for retired administrators:

- Education Code section 24216(a) – appointed as a trustee or administrator by the Superintendent of Public Instruction or county superintendent of schools;
- Education Code section 24216(b) – employed in an emergency situation to fill a vacant administrative position.

Employers must certify that the nature of the employment qualifies the member for the exemption. Once CalSTRS verifies the information in the certification, the exemption is approved, letters are written to the member and the district and the exemption is entered into the START database. The total staff time involved in processing one exemption is approximately 2 hours. Service Retirement processes approximately one exemption under Education Code section 24216(a) per year; these are completed in the same manner as those under section 24216(b). The emergency administrator and fiscal advisor exemptions permit employment for a two-year period. These exemptions will end on January 1, 2008.

ANALYSIS:

SB 758 establishes an exemption to the post-retirement earnings limit for retired DB Program members who return to work to provide mentoring services to principles in California public schools. The federal No Child Left Behind education standards result in some schools receiving low-performing assessments. These low-performing schools must make marked improvements each school year and face a variety of corrective actions if they do not progress, including the replacement of school staff and implementation of new curriculum and/or reorganization of the school. According to an October 13, 2004, Los Angeles Times article, more than 1,200 schools in California face the threat of these federal sanctions. Schools may hire outside consultants to advise and facilitate the school's efforts to improve performance and meet the federal standards. According to the author, this bill targets a pool of retired principals who have experience in the California public school system and are a logical choice to serve as consultants.

The State Board of Education, in consultation with the Superintendent of Public Instruction, must approve the hiring of a retired member under this new exemption. However, SB 758 does not include a requirement that the State Board of Education, Superintendent of Public Instruction or the retired member's new employer certify the exemption request, nor does it specify an appropriate limit on the amount of service that may be performed under the new exemption. Chapter 394, Statutes of 1995 (AB 948—Gallegos), which first allowed retired members who fill administrative and fiscal positions in troubled schools and districts to receive an exemption to the earnings limit, contained both these provisions, underscoring the temporary character of the CalSTRS exemptions. CalSTRS recommends amendments to require that the Board of Education certify the employment. CalSTRS can then require the employer to provide a copy of the State Board's action to certify the exemption on a form provided by the System, as occurs with the other exemptions. In addition, CalSTRS requests the bill limit the term of the exemption to two years.

SB 758 includes an urgency clause, which makes the bill effective immediately upon the signature of the Governor. Depending on the date of the signature, retired members could begin working under the new exemption in the middle of the school year, which creates administrative difficulties for school employers, employees and the System. As a result, staff recommends amendments to specify the new exemption applies beginning with the 2005-06 school year by establishing a July 1, 2005, effective date.

LEGISLATIVE HISTORY:

Chapter 934, Statutes of 2004 (AB 2554— Pavley) and Chapter 22, Statutes of 2000 (AB 141—Knox), extends an existing exemption to the post-retirement earnings limitation for administrators hired on an emergency basis.

Chapter 394, Statutes of 1995 (AB 948—Gallegos), among other things, permits the employment of retired CalSTRS members in administrative positions, who have the specific experience necessary to ensure or restore the financial stability of a troubled school district.

FISCAL IMPACT:

Program cost/savings: This bill has no actuarial impact on the System because the valuation of the DB Program assumes that retired members do not work beyond the earnings limit. To the extent that members earn compensation in excess of the limit, the subsequent reduction in CalSTRS benefits could result in an unanticipated actuarial gain to the program. The addition of an exemption to the earnings limitation would result in the System foregoing that actuarial gain.

Administrative costs/savings: Service Retirement's workload would increase by an estimated two staff hours for each exemption. The total increase in workload will be determined by the number of exemptions, but would most likely be insignificant.

SUPPORT/OPPOSITION

Support: Administration (sponsor)

Opposition: None known

ARGUMENTS

- **Pro:** This exemption to the earnings limitation eliminates a major disincentive for retired administrators to serve as mentors to administrators in underperforming schools.

- **Con:** Exemptions to the post-retirement earnings limit may conflict with other benefit enhancements that encourage retirement, such as the CalSTRS Retirement Incentive Program.